

REMARKS

Claims 1-3, 4, and 6 are rejected under 35 USC 102(b) as being anticipated by US 6,784,925 to Tomat et al. Dependent claim 5 is rejected under 35 USC 103(c) as being unpatentable over Tomat et al. in view of US 5,848,420 to Xu. Based on the following remarks, the Examiner is asked to reconsider the rejection of claims 1-6. In addition, new claims 7-12 are being added by this amendment.

The present invention, as claimed, permits image files to be transferred from a digital camera to a host computer *prior to the user requesting access to an image file* (see claim 1, paragraph (c) – "...in accordance with an assigned priority without a user request"). More specifically, when the digital camera is connected to a host computer, the image files are *immediately* transferred (prefetched) to the computer and stored (cached) as a background (low priority) task *without a user request*. As further explained on page 12 (lines 17-23) of the specification,

When the digital camera 10 is connected to the host computer 40 and *there are no user commands or OS file requests*, low priority read requests are assigned by the Camera Manager 80 and cause the low priority image files to be transferred during idle time on the host computer 40. This process is also known as pre-fetching. The host computer 40 transfers the image files one at a time from the removable memory card 30 of the digital camera 10 to the host computer memory (i.e., RAM 58 or the hard drive 56).

Each of the transferred image files thus include at least one digital image (Page 7, line 26). More specifically, a processor (18) in the camera performs color interpolation followed by color and tone correction, in order to produce rendered sRGB image data. The rendered sRGB image data is then JPEG compressed and stored as an Exif version 2.1 file on the removable memory card 30 (page 5, lines 4-7). Other data formats, of course, may be equally well accommodated. While not essential to the practice of the invention, other data – such as a thumbnail or audio segment data – may be associated with an image file (page 7, lines 8-9) and transferred therewith. Therefore, and as will become important in relation to the Tomat et al. reference, the image file inherently and

primarily contains the complete file of the captured image data – what is characterized as the “full size image” on page 2, lines 4-5 of the specification.

In rejecting the claims, the Examiner finds that Tomat et al. describes automatically transferring the plurality of captured image files from the camera to the computer (Tomat et al: column 7, lines 25-32). Furthermore, Tomat et al. is characterized in the rejection as transferring the images in accordance with an assigned priority without a user request - which is allegedly described in Tomat et al. as the downloading of the images sequentially from the camera in step S407 of FIG. 4.

However, Tomat et al. nowhere describes “automatically transferring the plurality of captured image files in the memory to the host computer in accordance with an assigned priority without a user request” – as recited in claim 1, paragraph (c). In Tomat et al., only the thumbnails are arguably transferred without a user request (step S407 in FIG. 4). There is no provision or suggestion for transferring the images files themselves “without a user request”. Indeed, after the camera is connected to the host computer, a camera icon 40 is displayed on the desktop. After the camera icon is selected by the user, a user interface window 44 is displayed on the desktop (col. 8, line 66 through col. 9, line 5). The window 44 includes a GET PHOTOS button 46, which must be selected by the user to download the full resolution image files (col. 12, lines 46-51). Consequently, the full resolution image files are only downloaded from the camera to the host computer after the user requests the download, not once, but twice – that is, only after the camera icon 40 is selected, and the GET PHOTOS button 46 is selected.

The Tomat et al. disclosure is clearly contrary to the spirit and purpose of applicants’ invention and does nothing to solve the problem addressed by the invention, that is: “A problem associated with image transfer is the image files are transferred from the digital camera to the host computer only when the user requests that an image file be accessed or opened” (page 2, lines 12-14 of applicants’ specification). Most significantly, there is nothing in Tomat et al which discloses paragraph (c) of claim 1, that is, “automatically transferring the plurality of captured image files in the memory to the host computer in accordance with an assigned priority *without a user request* “.

If, for sake of argument, the phrase "image files" as used in the claims would be seen to include only the thumbnail image "data" – which, incidentally, is contrary to the use of the same phrase "image files" in Tomat et al. – then such thumbnail "data" might be said to be automatically transferred to the host computer, arguably without a user request. However, even were this to be the case, this transfer of thumbnails in Tomat et al. is never interrupted so as to operate upon a particular untransferred image file. This conclusion is supported by FIG. 4 of Tomat et al., where thumbnails are downloaded sequentially (S407) and then (after two user requests - see the preceding paragraphs of these Remarks), the full resolution images are downloaded sequentially (S409). Thereafter, "focus change" (step S411) – the Tomat et al. characterization for requesting and downloading (steps S414-S416) a specific untransferred image file out of order - is only applied to the user-requested full-resolution image files. There is no provision for interrupting the thumbnail transfer "to operate on a particular untransferred image file" (claim 1, paragraph (d)).

Accordingly, even under this strained interpretation of "image files", there is nothing in Tomat et al which discloses paragraph (d) of claim 1 in connection with any disclosed transfer of data in accordance with an assigned priority without a user request, that is, nothing in Tomat et al. that discloses "interrupting the image file transfer (of such antecedent data, i.e., transferred without a user request) when a user requests the host computer to operate on a particular untransferred image file and returning to the remaining portion of the untransferred image files after the user requested image file is transferred so that the remaining untransferred image files are transferred to the host computer" (paragraph (d) of claim 1).

It is axiomatic that for prior art to anticipate under §102 it has to meet every element of the claimed invention. *Hybritech Inc. v. Monoclonal Antibodies, Inc.* 231USPQ 81, 90 (Fed. Cir. 1986). Anticipation under 35 U.S.C. Section 102(b) requires the disclosure in a single piece of prior art of each and every limitation of a claimed invention. *Rockwell International Corp. v. United States* 47USPQ2d 1027, 1031 (Fed. Cir. 1998). The foregoing remarks indicate that each claim includes one or more claimed elements that are not to be found or suggested by the Tomat et al. reference. For anticipation to be found, all of the claimed elements must be found in

Tomat et al. Since that is not the case with respect to each and every one of the claims 1 – 3, 4 and 6, the Examiner is respectfully asked to withdraw the rejection of these claims under 35 U.S.C. 102(b) and to consider allowance of the claims.

While claim 5 is rejected under 35 USC 103(c) as being unpatentable over Tomat et al. in view of US 5,848,420 to Xu, claim 5 is dependent on claim 1, and therefore includes all the features thereof. Accordingly, for the reasons set forth above with regard to claim 1, claim 5 is also believed to be patentable.

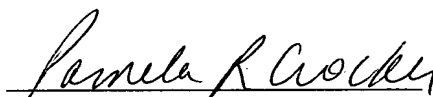
New claims 7-12 have been added to claim a further definition of the invention. Support for the language in new claim 7 regarding the processing of the captured images in order to produce rendered full size image data may can be found on page 2, lines 4-5 (i.e., full size images) and page 5, lines 4-7 (rendering of the data). The sRGB limitation in claims 13 and 14 is also found on page 5, lines 4-13. No new matter is being added by this amendment.

In view of the foregoing, this application is believe to be in condition for allowance, the notice of which is respectfully requested.

The Commissioner is hereby authorized to charge any fees in connection with this communication to Eastman Kodak Company Deposit Account No. 05-0225.

A duplicate copy of this communication is enclosed.

Respectfully submitted,



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